

R277-445 received final approval by the Utah State Board of Education on July 14, 2017. R277-445 is published in the August 15, 2017 Utah State Bulletin, subject to a 30-day comment period, with a first possible effective date of September 21, 2017.

R277. Education, Administration.

R277-445. Classifying Small Schools as Necessarily Existent.

R277-445-[2]1. Authority and Purpose.

~~[A-](1)~~ This rule is authorized by:

(a) Article X, Section 3 of the Utah Constitution₁, which vests general control and supervision ~~[of]over~~ public education in the Board~~[-]~~₁; ~~[Section 53A-1-401(3) which allows the Board to adopt rules in accordance with its responsibilities, and]~~

(b) Subsection 53A-17a-109(3)₁, which requires the Board to adopt rules that:

(i) govern the approval of necessarily existent small schools consistent with state law₁; and

(ii) ensure that districts are not building secondary schools in close proximity to one another where economy and efficiency would be better served by one school meeting the needs of secondary students in a designated geographical area~~[-]~~₁; and

(c) Section 53A-1-401, which allows the Board to make rules to execute the Board's duties and responsibilities under the Utah Constitution and state law.

~~[B-](2)(a)~~ The purpose of this rule is to specify the standards by which the Board classifies schools as necessarily existent~~[- Schools so classified may receive state funds which are in addition to those received on the basis of the regular WPU formula.]~~, which qualifies the schools for additional funding.

R277-445-[1]2. Definitions.

~~[A-](1)~~ "ADM" means average daily membership derived from end-of-year data.

~~[B-]~~ "Board" means the Utah State Board of Education.

~~— C- "Superintendent" means the State Superintendent of Public Instruction.~~

~~— D- "USOE" means the Utah State Office of Education.]~~

~~[E-](2)~~ "Weighted Pupil Unit" or "WPU" means ~~[weighted pupil unit:]~~ the basic unit used to calculate the amount of state funds a school district may receive.

R277-445-3. Standards.

~~[A-](1)~~ A school may be classified as necessarily existent if ~~[it meets the following standards:]~~

~~— (1) the average daily membership for]~~ the school's ADM does not exceed:

(a) 160 for elementary schools, including kindergarten at a weighting of .55 per average daily membership; ~~[or]~~

(b) 300 for one or two-year secondary schools; ~~[or]~~

(c) 450 for three-year secondary schools; ~~[or]~~

(d) 500 for four-year secondary schools; or

(e) 600 for six-year secondary schools.

(2) In addition to the requirements of Subsection (1), [the school meets the criteria of Subsection 3[(A)(1)](1)(a) and] one-way bus travel over Board approved bus routes for any student from the assigned school to the nearest school within the district of the same type shall require[s]:

(a) students in kindergarten through grade six to travel more than 45 minutes; or

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(b) students in grades seven through twelve to travel more than one hour and 15 minutes.

~~[(3) the school meets the criteria of Subsection 3(A)(1) for grades K-6 if it is an elementary school or grades 7-12 if it is a secondary school except as provided below:~~

~~—— (a) schools with less than six grades are not recognized as necessarily existent small schools if it is feasible in terms of school plant to consolidate them into larger schools and if consolidated would not meet the criteria listed in Subsections 3(A)(1) and 3(A)(2) above;~~

~~—— (b) a secondary complex or attendance area which when analyzed on a 7-12 grade basis, meets the criteria of necessarily existent, shall not have its qualifying status invalidated by a reorganization pattern determined by a district;~~

~~—— (c) in unusual circumstances, where in the judgment of a panel of at least five USOE staff members designated by the Superintendent, the existing conditions warrant approval of a middle school, such a school may be designated by the Superintendent as a necessarily existent small school, provided it meets the criteria listed in Subsection 3(A)(1) above or 3(A)(4) below.]~~

~~[(4)3] Notwithstanding Subsection (2), the Superintendent may classify a [the] school that meets the criteria of Subsection [3(A)](1), [may not meet the criteria of Subsection 3(A)(2);] as necessarily existent if:~~

~~(a) [but] the school is in a district which has been consolidated to the maximum extent possible, and activities in cooperation with neighboring districts within or across county boundaries are appropriately combined;~~

~~[(5)b] [the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), but] there is evidence acceptable to the Superintendent of increased growth in the school sufficient to take it out of the small school classification within a period of three years, provided that.~~

~~[(a)i] [F]the Superintendent may only classify the school [may be classified] as necessarily existent until its ADM surpasses the size standard for small schools of the same type[-];~~

~~[(b)ii] [F]the Superintendent shall annually compare the school's ADM [shall be annually compared] to the school's projected ADM to determine increases or decreases in enrollment[-];~~

~~[(c)iii] [An increase in the school's ADM shall be 80 percent of the projected annual increase.—] if the assessment for the first or second year shows the increase in the school's ADM is less than 80 percent of the projected annual increase, the school shall no longer be classified as necessarily existent;~~

~~[(6)c] [the school meets both the criteria of Subsection 3(A)(1) and at least the accredited with comment level of Board accreditation standards (as provided in R277-410, R277-411, and R277-412), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), or 3(A)(5), but there is evidence as determined by] the Superintendent determines that consolidation may result in undesirable social, cultural, and economic changes in the community, and:~~

~~[(a)i] the school has a safe and educationally adequate school facility with a life~~

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expectancy of at least ten years, as judged, at least every five years, by the [USOE] Superintendent after consultation with the district; or

~~(b)ii~~(A) the district ~~shall~~ would incur construction costs by combining a school seeking necessarily existent small school status with an existing school and such construction and land costs would exceed the insurance replacement value of the exiting school by 30 percent[-];

~~(B) [F]~~the existing school ~~shall have~~ has a life expectancy of at least ten years[-];
but

~~(C)~~ In the event that the ADM from the school seeking necessarily existent small school status under Subsection (3)(c)(ii), when combined with the ADM at the existing school exceed criteria in ~~[R277-445-3A]~~ Subsection (1), the Superintendent may not classify the existing school ~~[would be disqualified]~~ as necessarily existent[-]; or

~~[(c) schools qualifying under standard (b) above shall be evaluated every five years.]~~

~~[(7)d] [the school meets the criteria of Subsection 3(A)(1), does not meet the criteria of Subsections 3(A)(2), 3(A)(3), 3(A)(4), 3(A)(5), or 3(A)(6), and] the school does not qualify under Subsections (3)(a) through (c), and removal of the necessarily existent status would result[s] in capital costs [which] that the school district cannot meet within three years when utilizing all funds available from local, state, or federal sources [or a combination of the sources].~~

(4) The Superintendent may not recognize a school with less than six grades as a necessarily existent small school if its is feasible in terms of school plant to consolidate the school into a larger school, which, if consolidated, would meet the criteria of Subsection (1) and (2).

(5) If the Superintendent determines that a secondary complex or attendance area meets the criteria of necessarily existent when analyzed on a 7-12 grade basis, the Superintendent shall not invalidate the qualifying status as a result of a reorganization pattern by a district.

~~[B:]~~(6)(a) In accordance with Subsection 53A-2-204(3)(b)(ii), the Superintendent shall use Necessarily Existent Small Schools Program funds to cover out-of-state tuition reimbursements under Rule R277-421.

(b) Any prior year funding balance in the Necessarily Existent Small Schools Program shall be distributed by the [USOE] Superintendent in the current year using a formula that considers the tax effort of a local board of education.

~~[C:]~~(7)(a) A school district shall utilize [A] additional WPU funds allocated [to school districts] for necessarily existent small schools [shall be utilized] for programs at the school for which the units were allocated.

(b) [The f] Funds allocated under this rule [must] shall supplement and not supplant other funds allocated to [special] schools by the local board of education.

~~[D:]~~(8) The Superintendent shall classify a school [Schools shall be classified] after consultation with the district and in accordance with applicable state statutes and Board [standards] rules.

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Authorizing, and Implemented or Interpreted Law: Art X Sec 3; 53A-1-401[~~(3)~~]; 53A-17a-109(1)